

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: SIPA LIQUIDATION

BERNARD L. MADOFF INVESTMENT No. 08-01789(BRL)
SECURITIES LLC,

(Substantively
Consolidated)

Debtor.

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IRVING H. PICARD, Trustee of the
Liquidation of Bernard L. Madoff
Investment Securities LLC,
Plaintiff,

Adv. Pro. No.
09-01182(BRL)

vs.

J. EZRA MERKIN, GABRIEL
CAPITAL, L.P., ARIEL FUND LTD.,
ASCOT PARTNERS, L.P., GABRIEL
CAPITAL CORPORATION,

Defendants.
-----x

VIDEOTAPED DEPOSITION OF LISA M. COLLURA
New York, New York
June 18, 2015

Reported by:
KATHY S. KLEPFER, RMR, RPR, CRR, CLR
JOB NO. 94537

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2 equity -- the results of the net equity
3 calculation.

4 MS. ARCHER: Let's take a break for a
5 few minutes at this point.

6 MR. SONG: Sure.

7 THE VIDEOGRAPHER: The time is 1:37
8 p.m. We're going off the record.

9 (Recess.)

10 THE VIDEOGRAPHER: The time is 1:52
11 p.m. We're back on the record, video number
12 2.

13 BY MS. ARCHER:

14 Q. Ms. Collura, can I direct you to your
15 report, paragraph 15, page 5. Actually, before
16 we -- before we go there, go to paragraph 19 on
17 page 6, the bottom of page 6.

18 Are you there?

19 A. Uh-huh.

20 Q. Okay. Now, you state, "My team and I
21 reconciled 99 percent of the approximately
22 225,000 cash deposit and withdrawal
23 transactions," et cetera, and then you go on to
24 say, "The remaining 1 percent that we were
25 unable to reconcile consists primarily of

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2 withdrawal transactions for which copies of the
3 related canceled checks were not available."

4 Based on the results -- you say,
5 "Based on the results of our reconciliation of
6 99 percent of cash transactions, I can
7 reasonably infer that my team and I would have
8 been able to reconcile these withdrawal
9 transactions had copies of the related canceled
10 checks been available."

11 Why is that a reasonable inference?

12 A. Because for every time that we did
13 have a copy of a canceled check, it -- it
14 reconciled to a cash transaction on the
15 customer's statement. So, based on that result,
16 I can reasonably infer that if I were to have
17 copies of canceled checks for the remaining 1
18 percent, that those would also indeed reconcile.

19 Q. Those are separate transactions that
20 you didn't have canceled checks for, correct?

21 A. Correct.

22 Q. So it's possible that they would not
23 have reconciled?

24 A. Based on everything that I looked at,
25 I would -- it would be highly unlikely that they

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2 would not reconcile.

3 Q. Why?

4 A. Because of all over 200,000
5 transactions that did reconcile where we did
6 have a record, I would -- it's a reasonable
7 inference in my mind that if I were to have a
8 copy of the canceled check, it would also
9 reconcile.

10 Q. But it's possible that it would not
11 have reconciled?

12 MR. SONG: Object to the form.

13 Q. You don't know one way or the other,
14 correct?

15 A. I would say it's highly unlikely that
16 it would not reconcile.

17 Q. But you don't know one way or the
18 other?

19 MR. SONG: Object to the form.

20 A. I don't know because I don't have a
21 copy of the canceled check, but if I had it, I
22 would say that it would reconcile.

23 Q. Have you ever had situations where
24 some transactions had reconciled and some didn't
25 when you were reviewing transfers in connection

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2 with an investigation?

3 A. Reconciled to what?

4 Q. To bank statements and canceled
5 checks.

6 A. Can you be more specific about an
7 instance?

8 Q. You were reconciling transactions here
9 by looking at the bank statements and canceled
10 checks, and you were verifying the variety of
11 transactions, correct?

12 A. Correct.

13 Q. Have you had other situations where
14 you have conducted an investigation and found
15 that some transactions have reconciled and some
16 have not?

17 A. To BLMIS bank records?

18 Q. Or other ones. It doesn't have to be
19 limited to your work on BLMIS.

20 A. Where there was a discrepancy?

21 Q. Yes. There are times where you find a
22 discrepancy, correct?

23 A. In reconciling to -- to transactions
24 on customer statements to bank records?

25 Q. Yes.

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2 A. I mean, in this case, in my overall
3 reconciliation for the times that we had bank
4 records, I didn't find discrepancies.

5 Q. But there were some bank records that
6 were not available and, therefore, you were not
7 able to complete a reconciliation?

8 A. Correct, that's what's listed here.

9 Q. And so that's where you drew your
10 inference that, regardless of the fact that you
11 didn't have certain records before a certain
12 time period, you believed that it all would have
13 reconciled?

14 A. That's correct.

15 Q. But again, you have no way of knowing
16 one way or the other whether it would have?

17 MR. SONG: Object to the form.

18 Q. Of being certain?

19 A. I can't be certain without the
20 documents.

21 Q. Looking at paragraph 15 in your report
22 on the prior page, toward the bottom of the
23 page, you say, "I understand from counsel to the
24 trustee that there are several tracing methods
25 available within the court's discretion to trace

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2 different because LIFO and FIFO are really more
3 of an accounting method, and so I knew that from
4 my training and education and background in
5 accounting.

6 The restated tracing rules was
7 specifically based on the restatement that I
8 have included in my Exhibit 2 that I reviewed
9 and interpreted for purposes of this report. I
10 wasn't familiar with that prior to this case.

11 And proportionality really is, in my
12 mind, a pretty straightforward application of
13 the tracing method, so I didn't need to do
14 further research on that.

15 Q. Have you ever used the FIFO tracing
16 methodology previously?

17 A. For tracing?

18 Q. Yes.

19 A. No, just in -- in accounting.

20 Q. And in what way have you either used
21 it or come across it in your accounting
22 background?

23 A. It was when I was auditing back in
24 my -- the time when I was working for Deloitte &
25 Touche.

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2 Q. Is the same true for LIFO?

3 A. Yes.

4 Q. Have you used or incorporated LIFO or
5 FIFO in connection with any of your prior
6 engagements as an expert?

7 A. No, I have not.

8 Q. In connection with any of your fraud
9 investigations?

10 A. No, I don't believe I have.

11 Q. Have you ever used the proportionality
12 tracing method previously?

13 A. No.

14 Q. Have you used proportionality in
15 connection with any of your work at FTI?

16 A. I think the concept of proportionality
17 I would say that I have used in the past, not in
18 the same scenario of tracing subsequent
19 transfers, but the concept of applying things
20 proportionate is -- I would say I've used in my
21 practice in other cases.

22 Q. Can you give me an example of how you
23 would have used it in another case?

24 A. I'm trying to think if something
25 was -- I used something in the Refco matter. I

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2 can't think of a good example now.

3 Q. So none of your prior expert reports
4 or testimony have involved either FIFO or LIFO
5 or proportionality as a tracing method?

6 A. Correct.

7 Q. What about what you have identified as
8 LIBR, have you employed that previously in
9 connection with any of your work at FTI?

10 A. Not in the form of an expert report,
11 no.

12 Q. Otherwise, other than an expert
13 report, have you used the LIBR method?

14 A. I have looked into the use of LIBR in
15 other -- in other cases. If I remember, though,
16 it was more discussions with my colleagues in
17 having them apply it in the case that they were
18 working on, so it was -- you know, I have
19 certainly come across the LIBR method. I
20 personally had never applied it to bank account
21 activity, but I was aware of it, and through
22 discussions with my colleagues, you know, I
23 certainly was aware of the tracing method.

24 Q. So it wasn't the first time you heard
25 of LIBR was from the trustee's counsel?

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A. Correct.

Q. What about restated LIBR, when was -- were you familiar with that term and methodology before your work on this matter?

A. No, I was not.

Q. Had you ever heard the term "restated LIBR"?

A. No.

Q. I'm going to direct your attention to paragraph 96 in your report. It starts on page 34.

In the second sentence of that paragraph, you state, "I have assumed that the BLMIS funds are equivalent to the trust or secured funds referred to in my explanation of LIBR above."

Can you tell me why you made that assumption?

A. My understanding is that LIBR is a method that's used to determine who has rights to the balance in an account, or in my -- an example of that is to -- for a trust fund, for example, or if there's secured parties that have certain rights to funds, and my understanding of

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2 A. No, I did not.

3 Q. Did you ask the trustee's counsel any
4 questions about that?

5 A. I don't recall having those
6 discussions, no, not specifically.

7 Q. Did you understand, before you
8 conducted your application of the different
9 methodologies, that the restated LIBR would
10 reach a different result than the LIBR method?

11 MR. SONG: Object to the form.

12 A. I didn't have that in my mind when I
13 applied the different methods, but after
14 applying them, they came up with two different
15 results.

16 Q. Do you intend to offer an opinion in
17 this matter that any one of the methodologies is
18 more appropriate than the others?

19 A. No.

20 Q. Do you intend to offer any opinion
21 that one or more of the methodologies is less
22 appropriate than the others?

23 A. No.

24 Q. Do you have an opinion on that?

25 A. No, I was not asked to opine on that.